

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Filed On: June 19, 2006

BEFORE: Ginsburg, Chief Judge, and Sentelle, Henderson, Randolph,
Rogers, Tatel, Garland, Brown, and Griffith, Circuit Judges

ORDER

Upon consideration of the Notice of Proposed Rulemaking issued October 6, 2005, the comments received in response thereto, and the proposal of the Court's Advisory Committee on Procedures to amend Circuit Rules 15(c) and 28(a), it is, by the en banc court,

ORDERED that Circuit Rule 15(c)(2) be amended to read as follows:

(2) Docketing Statement Form. The docketing statement must be on a form furnished by the clerk's office and contain such information as the form prescribes. In cases involving direct review in this court of administrative actions, the docketing statement must contain a brief statement of the basis for the appellant's or petitioner's claim of standing. This statement may include reference to arguments, evidence, or the administrative record supporting the claim of standing. *See Sierra Club v. EPA*, 292 F.3d 895, 900-01 (D.C. Cir. 2002). An incomplete docketing statement will be lodged, and the party submitting it will be directed to provide a conforming one.

It is

FURTHER ORDERED that Circuit Rule 28(a)(6) be amended to read as follows:

(6) Summary of Argument. Except when a brief contains a "Standing" section as required by Circuit Rule 28(a)(7), in each brief, including a reply brief, a summary of argument must immediately precede the argument; the summary of argument must contain a succinct, clear statement of the arguments made in the body of the brief and not merely repeat the argument headings.

It is

FURTHER ORDERED that Circuit Rule 28(a)(7) be renumbered 28(a)(8) and the following provision be substituted as Rule 28(a)(7):

(7) Standing. In cases involving direct review in this court of administrative actions, the brief of the appellant or petitioner must set forth the basis for the claim of standing. This section, entitled "Standing," must follow the summary of argument and immediately precede the argument.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

When the appellant's or petitioner's standing is not apparent from the administrative record, the brief must include arguments and evidence establishing the claim of standing. See *Sierra Club v. EPA*, 292 F.3d 895, 900-01 (D.C. Cir. 2002). If the evidence is lengthy, and not contained in the administrative record, it may be presented in a separate addendum to the brief.

It is

FURTHER ORDERED that Circuit Rule 32(a)(2) be amended to read as follows:

(2) Length of Briefs. In calculating the number of words and lines that do not count toward the word and line limitations, the certificate required by Circuit Rule 28(a)(1), the glossary, and any addendum containing evidence in support of the claim of standing required by Circuit Rule 28(a)(7), may be excluded, in addition to the items listed in FRAP 32(a)(7)(B)(iii).

It is

FURTHER ORDERED that ¶ 1 of Part IV.B of the Circuit's Handbook of Practice and Internal Procedures be amended to read as follows:

In cases from administrative agencies, docketing occurs at the time the petition for review or notice of appeal is filed and precedes transmission of the record. The appellant or petitioner must remit the docketing fee to this Court at that time. For information the parties are required to provide with the docketing statement, motions, and rehearing petitions, see *supra* Part IV.A.3. In addition, in cases involving direct review of administrative agency actions, the docketing statement must contain a brief statement of the basis for the appellant's or petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2).

It is

FURTHER ORDERED that the penultimate sentence in ¶ 1 of Part IX.A.7 of the Circuit's Handbook of Practice and Internal Procedures be amended to read as follows:

These limits do not include the table of contents; table of citations; statement with respect to oral argument; certificate of parties, rulings, and related cases; the glossary; any addendum containing statutory material, regulations, or evidence supporting the claim of standing; and certificates of service and compliance with type-volume limitations.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

It is

FURTHER ORDERED that Part IX.A.8(e) of the Circuit's Handbook of Practice and Internal Procedures be amended to read as follows:

(e) A statement indicating the basis for this Court's jurisdiction and the basis for the district court's or agency's subject matter jurisdiction, with statutory citations and, if necessary, relevant case citations. See Fed. R. App. P. 28(a)(4); D.C. Cir. Rule 28(a)(4). Only appellant's or petitioner's brief must contain this statement; any party, intervenor, or *amicus* may include a counter statement regarding jurisdiction. If the basis of the district court's or agency's subject matter jurisdiction or this Court's jurisdiction is in dispute, the parties should so state and should reference the pages in the brief that address this issue. In cases involving direct review of administrative actions, the petitioner or appellant must also recite in a separate section the basis on which it claims standing. See D.C. Cir. Rule 28(a)(7); *Sierra Club v. EPA*, 292 F.3d 895, 900-01 (D.C. Cir. 2002).

These amendments are effective July 1, 2006.

Per Curiam

FOR THE COURT:

/s/Mark J. Langer
Mark J. Langer, Clerk